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March 6, 2006

VIA FAX

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.
★ MAR 22 2006 ★
BROOKLYN OFFICE

Honorable Edward Korman
United States District Court
United States Courthouse
225 Cadman Place East
Brooklyn, NY 11201

Re: **In re Holocaust Victim Assets Litigation, Nos. [redacted] and 06-CV-983**

Dear Chief Judge Korman:

Enclosed herewith is a proposed order reflecting your Honor's directives during the status conference on March 3. Before sending it to your Honor I have circulated it among counsel. Mr. Dubbin is in agreement. Mr. Issacharoff has no objection but does not believe your Honor directed items 1(b) and 2.

After reflecting on your Honor's extensive comments during the status conference, I want to take this opportunity to address the conduct of this proceeding. Most respectfully, I am concerned about a loss of civility. Before the Court is a Fee Application, nothing more and nothing less. Mr. Dubbin and I are advocates and officers of the Court who object to the Fee Application on specific enumerated grounds with which the Court may ultimately agree or disagree. The nuances to the Fee Application are the Court's close relationship to Mr. Neuborne, Mr. Neuborne's statements that he was acting *pro bono*, the prior undisclosed agreement between the Court and Mr. Neuborne regarding fees, the General Counsel role in which Mr. Neuborne served the Court, and whether class notice is mandatory under FRCP 23(h)(1).

While the Court may disagree with some of my specific objections, I believe they are understated, not overstated. For example, in referring to the instances in Mr. Neuborne's time records where he billed for more than 24 hours in a single day, I described these as "anomalies." I described the $5 million loss of interest from Amendment No. 1 to the Settlement Agreement as a "blunder." Both could have been addressed in stronger, more pejorative language. During the status conference I was offended my some of your Honor's remarks. I am not in a competition with Mr. Neuborne over who is the best lawyer. Nor do I think the Court has any right to suggest an ulterior motive to the objections. If anything, it would appear the Court is being seduced by the approach of Mr. Issacharoff to attack counsel instead of addressing the merits of the Fee Application.

As we proceed, I will continue to be a responsible advocate for the settlement class. I only ask that, in the tradition of professionalism, the Court respect my role and not attack or belittle me because of my advocacy.

Respectfully yours,

Robert A. Swift

RAS/pdw
Enclosure

Cc w/enc. via e-mail: Samuel Issacharoff, Esquire
Samuel Dubbin, Esquire